

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Department of Employment Services**



**Shared Work: An Alternative  
To Layoffs**

**Guide for Employers**

*Effective May 8, 2013*

# GOVERNMENT OF THE DISTRICT OF COLUMBIA

## Department of Employment Services



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Dear District of Columbia Employer,

In 2010, the District of Columbia enacted the Keep D.C. Working Act of 2010, which established the Shared Work Unemployment Insurance Program (Shared Work). Shared Work is a voluntary program that provides an alternative to layoffs for employers confronted with a temporary decline in business. The principle behind Shared Work is simple: instead of laying off a percentage of the work force to cut costs, an employer could reduce employees' hours by the same percentage and keep the entire work force on the job.

Shared Work offers many benefits to employers. Through this program, an employer maintains high productivity and quality because the existing trained work force remains in place. This means that employers can avoid the time and expense of rehiring and retraining new employees. Shared Work allows employers to maintain high employee morale because employees can avoid the insecurity and uncertainty that an impending layoff could bring.

Participation in the Shared Work Program would allow employers to continue to provide fringe benefits for their employees. Instead of facing the emotional and financial hardships of unemployment, employees would be able to keep their jobs. Additionally, because employees would remain job attached, they could continue to take part in professional development opportunities to further improve their skills.

Overall, the Shared Work Program proves to be beneficial for employers and employees as an alternative to layoffs.

Sincerely,

Department of Employment Services

*Effective May 8, 2013*

## **SHARED WORK PROCESSES AND GUIDELINES**

### **DEFINITIONS:**

1. Shared Work Plan – A plan that an employer creates as an alternative to laying off employees. The Shared work plan describes how the employer will reduce an affected unit's normal weekly hours of work.
2. Master file – An Excel, csv., or flat file document sent to DOES that has both employer and employee information.
3. Affected unit – An employer or its specified department, shift, or other unit of 2 or more employees that is designated by the employer to participate in a shared work plan.
4. Normal work hours – Forty hours, or the average of the total hours prescribed by an employer per week for a full time employee.
5. Shared Work Benefits – An unemployment compensation paid to employees in an affected unit who qualify to receive the benefits because the individual works reduced hours under an approved Shared Work Plan.

### **IMPORTANT GUIDELINES TO CONSIDER BEFORE SUBMITTING A SHARED WORK APPLICATION**

Before submitting an application for the Shared Work Program, you should ensure that your application follows the guidelines for approval.

Your application should certify that:

- The plan identifies the affected unit by providing a master list to DOES with the required information for each employee.
- All employees in the affected unit are full-time regular employees.
- Your plan for shared work applies to a minimum of 10% of the employees and no less than two (2) employees of an affected department, shift, or unit.
- The reduced hours for an affected unit are at least 20% and no more than 40% of an employee's normal work hours.
  - This percentage reduction will apply *for the entire length* of the Shared Work Plan.
- There will be equal treatment of an affected unit. This means that:
  - For each affected unit, each employee must have the same percentage of reduced hours *each week* throughout the entire Shared Work Plan.<sup>1</sup>
- The Shared Work Plan will not be used to reduce the fringe benefits offered to employees.
- The Shared work plan will be used in lieu of temporary layoffs.
- The Shared Work Plan will not be used to subsidize seasonal employees during the off season.

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<sup>1</sup>However, employees' hours of different affected departments or units may be reduced at a different percentage. This difference must be specified and addressed separately in the Shared Work Plan.

- The Shared Work Plan is approved in writing for all employees under a collective bargaining agreement.

## **PROCESS FOR ESTABLISHING A SHARED WORK PLAN BETWEEN DEPARTMENT OF EMPLOYMENT SERVICES (DOES) AND AN EMPLOYER**

### SHARED WORK PLAN APPLICATION

1. An employer who wants to participate in the Shared Work Program shall **complete and submit the Shared Work Plan Application.**
  - a. The Shared Work Plan Application is a fillable PDF document and can be downloaded from the DOES Shared Work Program website, <http://does.dc.gov/page/shared-work-unemployment-compensation-program>.
  - b. The employer emails the completed application to [sharedwork@dc.gov](mailto:sharedwork@dc.gov).<sup>2</sup>
2. DOES reviews the application for compliance with the requirements of the Shared Work Program. DOES will approve or deny the Shared Work Plan no later than 30 days from the date it is received by DOES. DOES will provide written notification of the approval or denial of the Shared Work Plan Application.
3. If the Shared Work Plan is approved, DOES will email the employer an approval letter and a Memorandum of Agreement (MOA) for participation in the Shared Work Program. The Shared Work Plan is effective as of the date noted in the approval letter.
4. If a Shared Work Plan is denied, DOES will email a denial letter to the employer with an explanation of why the submitted plan was denied. The employer will be given a chance to reapply by submitting a revised Shared Work Plan.<sup>3</sup> An employer may reapply for the Shared Work Program no more than three (3) additional times within a 12-month period.
5. Once a Shared Work Plan is approved, the employer should take the following actions:
  - a. Sign and return your MOA to DOES within seven (7) business days of receiving your approval letter. The MOA should be emailed to DOES at [sharedwork@dc.gov](mailto:sharedwork@dc.gov).

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<sup>2</sup> All emails should be sent to [sharedwork@dc.gov](mailto:sharedwork@dc.gov)

<sup>3</sup> The employer may reapply up to three (3) additional times within a 12-month period.

- b. Inform your employees that your Shared Work Plan has been approved and provide them with the guidelines, websites, and resources for the plan.
- c. Inform your employees of the need to file an online application for Shared Work benefits.
- d. Submit to DOES your master file that includes information for all employees within an affected unit.
- e. Continue to certify weekly hours worked for each employee in an affected unit by providing a master file to DOES on the basis of your payroll cycle.

#### SHARED WORK PLAN IMPLEMENTATION

1. The employer verifies the reduced hours that employees have worked by emailing a master file and biweekly certification to DOES at [sharedwork@dc.gov](mailto:sharedwork@dc.gov).
2. Employees in the affected unit certify weekly to report any additional income or any additional hours worked using the DOES Online Employee Certification system.
3. DOES cross-checks each employee's application with the master file sent by employers to ensure that the employee is eligible to participate in the Shared Work Plan.
4. If the employee is eligible to participate in the Shared Work Plan, DOES will process the application for Shared Work benefits and notify the employee whether sufficient wages exist to establish a claim for Shared Work benefits.
5. If the employee is not eligible for benefits because the employer does not have a Shared Work Plan with DOES, DOES will send an email to the employee advising of the ineligibility to receive benefits for that reason.
6. If the employee is not eligible for benefits because the employee's name is not on the master file, DOES will send an email to the employee advising of the ineligibility to receive benefits for that reason.
7. DOES reviews information from both the employer and the employee to determine the Shared Work benefits for which an employee is eligible.
8. For every certification week that an employee is eligible to receive Shared Work benefits through an approved Shared Work Plan, DOES pays the employee through a debit card that is provided to the employee from DOES.

9. DOES processes the employee's Shared Work certifications at the end of the employer's standard payroll period. This may be weekly, bi-weekly, bi-monthly, or monthly.

#### SHARED WORK BENEFITS

1. Unless otherwise noted, Shared Work Benefits paid to employees, like regular UI benefits, are 100% employer-covered.
2. Employees will receive Shared Work benefits equal to the employee's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of the reduction of the employee's hours.
3. If an employee performs paid work for the participating employer or another employer in excess of the reduced hours, that employee will not receive Shared Work Benefits for that week.

#### MODIFICATION OF A SHARED WORK PLAN

1. An employer may make modifications to a Shared Work Plan, if the modification does not substantially change the basic provisions of the original Shared Work Plan.
2. All requests for modification must be made in writing to [sharedwork@dc.gov](mailto:sharedwork@dc.gov). Any approved modifications will not change the original expiration of the Shared Work Plan.
3. All modifications of a Shared Work Plan must be approved in writing by DOES.

#### TERMINATION OF A SHARED WORK PLAN

1. DOES may terminate a Shared Work Plan for good cause, if DOES determines that the Shared Work Plan is not being executed according to the terms and intent of the Shared Work Program.
2. If DOES determines that an employer is not enforcing the stated terms and guidelines for the Shared Work Program, an employer's Shared work plan may be terminated.

## **FREQUENTLY ASKED QUESTIONS (FAQs)**

**Q. My business is located in Maryland. Can I qualify?**

- A. Shared Work in the District of Columbia is available only to employers that are located in the District of Columbia. It is available based on where employees work, not where they live.

**Q. When can I participate in Shared Work?**

- A. An employer who experiences a sharp reduction in activity due to economic conditions may consider using Shared Work as an alternative to layoffs.

**Q. Can Shared Work be used for reasons other than lowered activity due to economic conditions?**

- A. No. Shared Work is not intended to be a means for employers to address problems such as seasonal or cyclical shutdowns, inventory control, model changeovers, or equipment maintenance. Shared Work is also not intended to allow an employer to use unemployment insurance benefits to supplement the payroll on a continued basis.

**Q. If I choose Shared Work, must I use it for my entire business or company?**

- A. No. Shared Work can be used in one or more departments, shifts, or units. You have the flexibility to choose the area involved, but a minimum of 10% of the employees in the selected area must be affected.

**Q. How many employees are required for approval of a Shared Work Plan?**

- A. An affected department, shift, or unit must project that a minimum of 10% of the employees would have been affected by a layoff.

**Q. Are there any limitations on which employees may be included?**

- A. Yes. Employees must have been on your payroll continuously for at least three months immediately preceding the date the plan is submitted, and they must not be part-time or seasonal employees.

**Q. If I have union employees, must the union approve a Shared Work Plan?**

- A. Yes. If your employees have a collective bargaining agreement, the concurrence of the union's bargaining agent must accompany the application. Employees that are not covered by a collective bargaining agreement shall be given the option to participate in the Shared Work Plan.

**Q. What percentage of reduction in hours is required to participate in Shared Work?**

- A. You must reduce hours by at least 20% and by no more than 40%.

**Q. Can there be different percentages of reduced hours for different employees in the same affected area?**

A. No. All participating employees in an affected unit or department must be treated equally. However, employees' hours of different affected departments or units may be reduced at a different percentage. This difference must be specified and addressed separately in the Shared Work Plan.

**Q. How long can my employees receive Shared Work benefits?**

A. Employees may receive Shared Work benefits for up to 50 weeks in a benefit year. The Shared Work application is valid for 12 months from the date of approval by the DOES Director. Employers who wish to extend their Shared Work Plan may file a new application with DOES.

**Q. Can I use Shared Work as a transition to a permanent layoff?**

A. No. The intent of the Shared Work Program is to keep employees employed.

**Q. Can I interrupt Shared Work to put all of my employees back to full-time hours and then return to Shared Work?**

A. Yes. The Shared Work Plan may be modified. Employers must seek written prior approval of the modification from the DOES Associate Director of the Office of Unemployment Insurance.

**Q. Can I interrupt Shared Work to put a participating affected unit, section, or department back to full-time hours for a limited number of weeks and then return to Shared Work?**

A. Yes. The Shared Work Plan may be modified. Employers must seek written prior approval of the modification from the DOES Associate Director of the Office of Unemployment Insurance.

**Q. Can I lay off some of the employees designated in a Shared Work Plan and continue the Shared Work Plan with the remaining employees?**

A. Yes. The Shared Work Plan may be modified. Employers must seek written prior approval of the modification from the DOES Associate Director of the Office of Unemployment Insurance.

**Q. Can an employee work for another employer during the Shared Work Plan period?**

A. Yes. However, this could affect the employee's eligibility for Shared Work benefits.



**Q. Does an employee have to actively seek work or accept offers of work while participating in Shared Work (with the exception of the Shared Work employer)?**

- A. No. However, all participating employees must be available to work for their Shared Work employer when additional hours are available.

**Q. What happens if an employee receives holiday or vacation pay?**

- A. Holiday hours are considered as hours worked and may reduce or eliminate Shared Work benefits for the calendar week. Generally, a holiday cannot be a reduced hour day, unless the employee in the same position performed compensated services as part of the employee's normal weekly hours of work on that holiday, during the twelve-month period prior to the employer's participation in the Shared Work Program. During a calendar week, a holiday cannot be the only day certified as a reduced hour day.

Vacation hours are considered as hours worked and may reduce or eliminate Shared Work benefits for the calendar week.

**Q. What happens if an employee receives sick pay?**

- A. Sick leave hours for which the employee receives compensation are considered as hours worked and may reduce or eliminate Shared Work benefits for the week. Sick leave hours for which the employee was not compensated are categorized as "not working all available hours" and may reduce or eliminate Shared Work benefits.

**Q. What are the costs of Shared Work?**

- A. The cost of Shared Work is determined by an experience rate, the same way as regular unemployment insurance. All Shared Work benefits paid are charged to the Shared Work employer, whereas regular unemployment insurance benefits paid may be charged to several base period employers.

**Q. How do I begin Shared Work?**

- A. The first step is to complete an application for Shared Work. Applications are available online at <http://does.dc.gov/page/does-shared-work-plan-application>. You can reach the Shared Work Coordinator by telephone at 202-724-4555, if you have questions. The Shared Work Coordinator is available for guidance while you are developing the Shared Work Plan.

**Q. How much lead time is necessary to initiate a Shared Work Plan?**

- A. Allow as much time as possible by beginning the application as soon as you know a reduction in the work force is imminent. However, the earliest a Shared Work Plan may be effective is the Sunday prior to the week the Shared Work Plan is approved.

**Q. Do I need to specify which employees will be participating in the Shared Work Plan?**

- A. Yes. The Shared Work Plan must include for each participating employee: name; Social Security number; date of birth; address; other contact information; furlough days; duty station; date of hire; return to work date, if applicable; any change in status; whether this is the employee's first participating payroll cycle; hours worked for the payroll cycle; any other wages received for the payroll cycle; and basic wage information.

**Q. How will I know if my Shared Work Plan is approved?**

- A. All Shared Work Plans must be approved or disapproved by the Associate Director of the Office of Unemployment Insurance within 30 days of receipt. You will be notified in writing by the Shared Work Coordinator when the Shared Work Plan is approved or disapproved.

**Q. Is there a period of time that must lapse between two Shared Work Plans?**

- A. No.

**Q. Are reports required while the Shared Work Plan is in effect?**

- A. Yes. Employers are required to submit a weekly list of participating employees, including name; Social Security number; date of birth; address; other contact information; furlough days; duty station; date of hire; return to work date, if applicable; any change in status; whether this is the employee's first participating payroll cycle; hours worked for the payroll cycle; any other wages received for the payroll cycle; and basic wage information.

**Q. What happens if the employer reports incorrect employee information to DOES that results in an overpayment?**

- A. If an employer reports incorrect information that results in an overpayment to an employee, the employee will be held overpaid and will need to repay DOES. Further, the employer may not be relieved of the benefit charges assigned to their account for the erroneous payments. It is imperative for the employer to carefully review the information submitted to DOES which certifies that the Shared Work Program is being properly administered and the reduced hours have been properly reported to DOES.

Shared Work benefits will not be released to an employee until the employer certifies the reduced hours with DOES. DOES requires the employer to submit the certifying information at the end of each pay period.

**Q. What happens if the employee reports incorrect information or fails to report information to DOES that results in an overpayment?**

- A. If the employee reports incorrect information that results in an overpayment to an employee, the employee will be held overpaid and will need to repay DOES.

**Q. What is the process of receiving Shared Work benefits after the Shared Work Plan is approved?**

- A. 1. Employers must submit a file to DOES that identifies the employees of all the affected work units who are covered under the Shared Work Plan.
2. Employees that are covered under the approved Shared Work Plan and who experience reduced hours are required to certify their reduced hours each week and report any hours and wages earned from other employment.
3. The Shared Work employer will certify the reduced hours for the affected employees at the end of each pay period with DOES.
4. DOES will process the Shared Work payment file upon receipt from the employer.

(Also see "Shared Work Unemployment Process" chart)

**Q. Do I have appeal rights as a Shared Work participant?**

- A. Yes. All unemployment insurance benefit determinations have appeal rights. Appeals must be filed with the Office of Administrative Hearings. However, it is imperative for employers to closely manage the Shared Work to ensure that the employees in the affected work units covered in the plan experience the same number of reduced hours each week. If an employee who is covered under a Shared Work Plan files an appeal on a benefit determination, you will be required to attend the appeal hearing as the Defendant in the appeal and offer evidence to support the manner in which the Shared Work Plan was administered. If DOES discovers a disparity in approved and rejected claims by members in the same work unit, the Shared Work Plan will be revoked.

**Q. Who is responsible for monitoring employee participation and ensuring the plan is being administered properly?**

- A. The employer is responsible for ensuring that employees in the same affected work group experience the same number of reduced work hours while the plan is in effect. If DOES discovers a disparity in approved and rejected claims by members in the same work unit, the Shared Work Plan will be revoked.



**Government of the District of Columbia**  
**Vincent C. Gray, Mayor**  
**Department of Employment Services**  
**Lisa María Mallory, Director**

*Effective May 8, 2013*